

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 849/2006
(Hajari Mal Vs. State of Rajasthan & Anr.)

Date of Order : 18/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

None present for the petitioner.
Mr.Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 03.5.2006 passed by learned Sessions Judge, Pali (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dated 8.2.2006 passed by Judicial Magistrate No.1, Pali (for short 'the trial court' hereinafter), was dismissed.

I have carefully gone through the orders passed by both the courts below.

The trial court took the cognizance of the offence and proceeded with the trial of the case. During pendency of the case, the petitioner filed an application seeking recalling/ setting

aside the order taking cognizance. That application came to be dismissed by the trial court relying on a Three Judge Bench decision of Hon'ble Supreme Court in Adalat Prasad Vs. Rooplal Jindal and Ors. 2004 Cr.L.R. (SC) 800 which is also reported in JT 2004 (7) SC 243.

In my view, the trial court was justified in dismissing the application filed by the petitioner as also the revisional court was justified in affirming the order passed by the trial court.

In Adalat Prasad Vs. Rooplal Jindal and Ors., (supra) and in Subramanim Sethuraman Vs. State of Maharashtra and Anr., 2004 CRI.L.J. 4609, the Hon'ble Supreme Court held that Criminal Procedure Code does not contemplate power of review/recalling of an order.

The petition has no force and, therefore, it is dismissed.

(H.R.PANWAR),J.

Rp